IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

Summons for Judgment No.202 of 2005
in
Summary suit No.3339 of 2004

Nand Bhagwandas Mansharamani ..Plaintiff

vs.

Satish Karnani ..Defendant

Mr.B.S.Chandnani for plaintiff
Mr.Mukesh Pabari for defendant.

CORAM: S.J.VAZIFDAR J.
21st NOVEMBER, 2005

P.C.

. The suit is filed to recover the amount lent and advanced by the plaintiff to the defendant. The suit is based on the Bill of Exchange drawn by the defendant. The Bill of Exchange has not been accepted. The main defence is that the defendant has repaid the amount. The defendant relied upon the alleged receipt dated 28th August, 2002 allegedly signed by the plaintiff. It is pertinent to note that in reply to the plaintiff's Advocate's notice dated 22nd November, 2002, the defendant addressed a letter dated 19th December,2002 which even does not refer to the alleged receipt dated 28th August,2002. The same is even more significant as two earlier letters dated 12th April, 2002 10th May, 2002 have been referred to. The

plaintiff denied the receipt of these letters. Even assuming they were received by the plaintiff it does not carry the defendant's case further because by those letters the defendant has only allegedly called upon the plaintiff to collect the amount in cash. There is no explanation why the alleged receipt dated 28th August, 2002 was not mentioned in the reply to the plaintiff in notice of demand.

. In the circumstances, it appears clear that the alleged receipt is bogus. The alleged receipt dated 28th August, 2002 is impounded and shall be kept by the office in safe custody.

. In the circumstances, leave to defend granted to the defendant conditional upon the defendant depositing in this Court a sum of Rs.65,000/- within 12 weeks from today.

. In the event the defendant deposits the aforesaid amount, the suit to stand transferred to the list of Commercial Causes. The defendant to file his written statement within 30 days. Discovery and inspection within four weeks thereafter.

. In the event the defendant fails to deposit

the aforesaid amount, liberty to the plaintiff to apply for further orders.

. On the said deposit being made, the Prothonotary and Senior Master to invest the same in any Nationalised Bank initially for a period of two years and shall renew the same thereafter for a period of one year from time to time.

. Summons for judgment stands disposed of accordingly.